

In re Patent Application of
FLICK
Serial No. 09/993,930
Filed: NOVEMBER 16, 2001

REMARKS

The Examiner is thanked for the thorough examination of the present application, for correctly withdrawing the prior double patenting rejection in view of the filed Terminal Disclaimer, and for correctly indicating the patentability of the subject matter of dependent Claims 10, 22, 35, 45, 57 and 69.

As an initial matter, the Examiner takes the position that the explanatory functional language "to thereby alert a user of a potentially unauthorized learned remote transmitter" does not differentiate the claimed apparatus from the prior art. While Applicant believes the Examiner misconstrues and misapplies the cited *Ex parte Masham* case, nevertheless to remove any possible confusion this recitation has been removed from the apparatus claims 1, 13, 24, 29 and 34. Although the Examiner applied this same contention regarding method Claims 48 and 60, the Examiner is respectfully requested to reconsider this improper reading because *Ex parte Marsham* is only directed to functional recitations in the apparatus claims.

As explained in detail below, each of the independent Claims 1, 13, 24, 29, 34, 48 and 60 includes patentable recitations even without resort to the explanatory language relating to alerting a user to a potentially unauthorized learned remote transmitter.

I. The Claimed Invention

The invention is directed to various embodiments of remote control systems and related methods for moving an access door, such as a garage door, for example. Independent

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Claim 1 is directed to such a remote control system and recites at least one indicator, at least one uniquely coded remote transmitter, and a controller being switchable to a learning mode for learning a unique code of a remote transmitter to define a learned remote transmitter. The controller is also switchable to a door moving mode for moving the access door based upon receiving a signal from the learned remote transmitter. Moreover, independent Claim 1 further recites that the controller cooperates with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned based upon the controller being switched to the door moving mode. Accordingly, the system may thereby alert a user of a potentially unauthorized learned remote transmitter. Independent method Claim 48 is a method counterpart to independent system Claim 1.

Independent Claim 13 is also directed to a remote control system for moving an access door. However, Claim 13 recites at least one remote switch for causing the controller to cooperate with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned. Independent method Claim 60 is a method counterpart to system Claim 13.

Independent system Claim 24 recites that the controller cooperates with the at least one indicator for continuously indicating whether a new uniquely coded remote transmitter has been learned. Independent system Claim 29 recites that the controller cooperates with the at least one indicator for repeatedly indicating whether a new uniquely coded remote transmitter has been learned. Lastly, independent Claim 34 recites that the controller cooperates

In re Patent Application of
FLICK
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with the at least one indicator for indicating that the
learning mode has recently been exited.

II. Claims 1-9, 11, 12, 48-56, 58 and 59 Are Patentable

Independent Claim 1 recites that the controller is switchable to a learning mode for learning a unique code of a remote transmitter to define a learned remote transmitter, and that the controller is also switchable to a door moving mode for moving the access door based upon receiving a signal from the learned remote transmitter. Moreover, Claim 1 further recites that the controller cooperates with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned based upon the controller being switched to the door moving mode. This may thereby alert a user of a potentially unauthorized learned remote transmitter.

Heitschel et al. is directed to a remote garage door operating system including a switch 22 that can be moved to a program position to learn a new uniquely coded remote transmitter into one of five available positions as designated by the setting of a rotary switch 23. As correctly noted by the Examiner, Heitschel et al. lacks the claimed at least one indicator, and, moreover, lacks the controller cooperating with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned. The Examiner looks to Lavelle et al. to supply these noted deficiencies of Heitschel et al.

Lavelle et al. discloses a programmable entry control system that may read a uniquely coded key in the form of a ROM chip. The device includes a programmer receptacle 60 that is used so that a key may be deleted or added. Lavelle

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FLICK
Serial No. 09/993,930
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et al. provides: "[t]he LED 24 at the reader also indicates visually that the key has been entered into the system or changed or deleted." (Col. 6, lines 14-20).

The Examiner asserts that the combination of Lavelle et al. and Heitschel et al. is motivated by a desire to prevent unnecessary transmitter operation, thus extending transmitter life time. Applicant is unable to find any such teaching in Lavelle et al., Heitschel et al. or any of the other prior art of record as to how learning a contact-readable ROM chip key has anything to do with a remote radio transmitter, much less imparts any power savings to the remote transmitter.

Nevertheless, even if there was some proper motivation in the prior art to combine the disjoint teachings of Heitschel et al. and Lavelle et al. in the manner suggested by the Examiner, the claimed invention as recited in independent Claim 1 is still not produced. Even the selective combination of Heitschel et al. and Lavelle et al. fails to produce the claimed controller cooperating with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned based upon the controller being switched to the door moving mode.

Indeed, the selective combination of Heitschel et al. with Lavelle et al. would merely produce an instantaneous indication of a newly learned remote transmitter. Accordingly, the combination of cited references fails to produce the invention as recited in Claim 1, as the combination simply provides immediate confirmation that a key has been added or deleted. Independent Claim 1 and its method counterpart, Claim 48, are thus patentable over the prior art.

In re Patent Application of
FLICK
Serial No. 09/993,930
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Their dependent claims, that recite yet further distinguishing features, are also patentable and require no further discussion herein.

III. Claims 13-21, 23, 60-68, 70 and 71 Are Patentable

Independent Claim 13 recites at least one remote switch for causing the controller to cooperate with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned. This may also alert a user of a potentially unauthorized learned remote transmitter.

Even the selective combination of Heitschel et al. with Lavelle et al. as discussed extensively above fails to produce the invention as recited in independent Claim 13 -- there is simply no remote switch in the combination of references for causing the controller to cooperate with the at least one indicator for indicating whether a new uniquely coded remote transmitter has been learned.

Independent Claim 13 and its method counterpart, Claim 60, are patentable over the prior art. Their dependent claims, that recite yet further distinguishing features, are also patentable and require no further discussion herein.

IV. Claims 24-28 Are Patentable

Independent Claim 24 describes another embodiment wherein the controller cooperates with the at least one indicator for continuously indicating whether a new uniquely coded remote transmitter has been learned to thereby alert a user of a potentially unauthorized learned remote transmitter.

In re Patent Application of
FLICK
Serial No. 09/993,930
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Even the selective combination of Heitschel et al. with Lavelle et al. proposed by the Examiner fails to produce the invention as recited in independent Claim 24, as there is simply no continuous indication of whether a new uniquely coded remote transmitter has been learned.

Independent Claim 24 is patentable over the prior art. Its dependent claims, that recite yet further distinguishing features, are also patentable and require no further discussion herein.

V. Claims 29-33 Are Patentable

Independent Claim 29 recites that the controller cooperates with the at least one indicator for repeatedly indicating whether a new uniquely coded remote transmitter has been learned. Again, even the selective combination of Heitschel et al. with Lavelle et al. fails to produce the invention as recited in independent Claim 29 as there is simply no repeating indication of whether a new uniquely coded remote transmitter has been learned.

Independent Claim 29 is patentable over the prior art. Its dependent claims, that recite yet further distinguishing features, are also patentable and require no further discussion herein.

VI. Claims 34-47 Are Patentable

Independent Claim 34 recites that the controller cooperates with the at least one indicator for indicating that the learning mode has recently been exited. Even the selective combination of Heitschel et al. with Lavelle et al. fails to produce the invention as recited in independent Claim

In re Patent Application of
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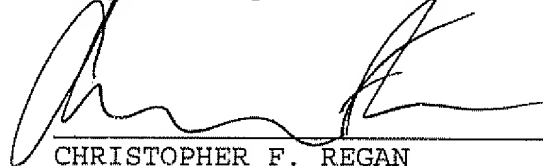
34 as there is simply no indication of whether the learning mode has been exited.

Independent Claim 34 is patentable over the prior art. Its dependent claims, that recite yet further distinguishing features, are also patentable and require no further discussion herein.

VII. CONCLUSIONS

In view of the arguments presented above, it is submitted that all of the claims are patentable. Accordingly, a Notice of Allowance is respectfully requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney via telephone.

Respectfully submitted,



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